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In re Application of	:	NOTIFICATION
CATE et al.	:	
Application No.: 09/674,399	:	
PCT No.: PCT/US00/02028	:	
Int. Filing Date: 26 January 2000	:	
Priority Date: 05 April 1999	:	
Attorney Docket No.: P03958US1	:	
For: METHOD AND MEANS FOR FILLING	:	
NATURAL CASING SAUSAGE	:	

This notification is in response to applicants' "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" filed 19 February 2002. The submission was accompanied by a declaration of inventors.

#### **BACKGROUND**

On 26 January 2000, applicants filed international application PCT/US00/02028, which claimed a priority date of 05 April 1999, and which designated the United States.

A Demand was not filed with the International Preliminary Examining Authority electing the United States prior to the expiration of 19 months from the priority date, and as a result the deadline for submission of a copy of the international application (unless previously communicated by the International Bureau) and payment of the basic national fee expired 20 months from the priority date, i.e. 05 December 2000.

On 31 October 2000, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the basic national fee and the surcharge for late filing of the oath or declaration.

On 28 November 2000, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, an oath or declaration in compliance with 37 CFR 1.497 was required.

On 26 December 2000, applicants filed a "COMPLETION OF FILING REQUIREMENTS" which was accompanied by, *inter alia*, a declaration of the inventors.

On 22 June 2001, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) and a NOTIFICATION OF A DEFECTIVE OATH OR DECLARATION (Form PCT/DO/EO/917) which indicated that the declaration filed 26 December 2000, was unacceptable in that it was "not signed by all inventors." The Form PCT/DO/EO/916 set a non-extendable response period of one month from the mail date of the Notification.

On 26 September 2001, the DO/EO/US mailed a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) which indicated that the application was held to be abandoned for failure to respond to the Form PCT/DO/EO/905.

On 29 October 2001, applicants filed a request to vacate the holding of abandonment on the grounds that a response to the Form PCT/DO/EO/905 was filed on 26 December 2000. This request was treated as a petition under 37 CFR 1.181.

On 18 December 2001, a decision was mailed granting applicants' petition under 37 CFR 1.181 and withdrawing the holding of abandonment mailed 26 September 2001. However, the decision also noted that the declaration filed 26 December 2000 was not sufficient. The decision noted that each declaration must be complete in and of itself, however, the declaration filed 26 December 2000 comprised a declaration which had been executed by all of the inventors except for inventor Ottow and the signature page of a second declaration which was executed by inventor Ottow as well as inventor Enklaar. The decision also indicated that applicants must submit either a single declaration executed by all of the inventors or in the alternative a complete copy of the declaration as executed by inventor Ottow.

On 03 January 2002, the DO/EO/US mailed a NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916) which indicated that the declaration filed 26 December 2000 was unacceptable in that it was not executed in accordance with either 37 CFR 1.66 or 37 CFR 1.68. This NOTIFICATION OF DEFECTIVE RESPONSE set a non-extendable response period of one month from the mail date of the Notification.

On 19 February 2002, applicants submitted the instant "RESPONSE TO NOTIFICATION OF DEFECTIVE RESPONSE" which was accompanied by a declaration of inventors signed by inventor Ottow. (The response is accompanied by a Certificate of Mailing stating that it was mailed on 22 January 2002. The letter was received by the USPTO on 19 February 2002.)

### **DISCUSSION**

The declaration filed 19 February 2002 fails to comply with 37 CFR 1.497(a)-(b). As noted in the decision mailed 18 December 2001, each submitted declaration must be complete in and of itself. The declaration filed 18 February 2002 is not complete; it identifies only one of the

nine inventors. Each declaration must, inter alia, identify all of the inventors. (It is also noted that the declaration is not a complete copy of the declaration as executed by inventor Ottow on 12 August 2000.)

Since applicants have not filed a proper reply within the time limit set forth in the NOTIFICATION OF DEFECTIVE RESPONSE mailed 03 January 2002, the application is abandoned as to the United States of America.

### CONCLUSION

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of this letter marked to the attention of the Office of PCT Legal Administration.

Applicants may wish to consider filing a petition under 37 CFR 1.137 to revive the application.

This application is being forwarded to the DO/EO/US for the mailing of a new NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application is abandoned as to the United States of America for failure to timely reply to the NOTIFICATION OF DEFECTIVE RESPONSE mailed 03 January 2002.



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